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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/594,181

11/27/2007

David G. Burton

8627-1397(PA-5496-PCT/US)

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48003

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09/12/2008

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CHICAGO, IL 60610

EXAMINER

KENNEDY, JOSHUA T

ART UNIT

PAPER NUMBER

3679

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/594,181	<b>Applicant(s)</b> BURTON ET AL.	
	<b>Examiner</b> JOSHUA T. KENNEDY	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-4 and 6-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-4 and 6-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed 12/19/2008 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claims 1 and 5 have been cancelled.

Claims 2-4 and 6- 20 have been examined.

### ***Claim Objections***

Claim 7 is objected to because of the following informalities:

Line 2: "is" should be deleted. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-4, 6, 7 and 9-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Fitoussi et al (US Patent 6,332,633).

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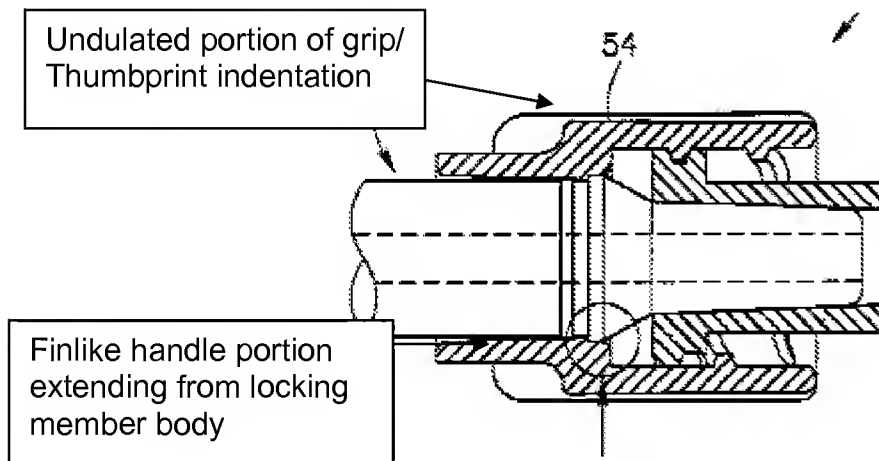
As to Claims 11 and 14, Fitoussi et al disclose a luer fitting assembly (Figs 1A and 1B) comprising

a male luer fitting member (12) having a longitudinal axis and adapted for connection at a forward end thereof with a female luer fitting (14), respectively, the luer fitting member comprising a conical restraining surface (34), the conical restraining surface comprising a rim (30; Col 4, Lines 40-44) approximately orthogonal to said longitudinal axis; the luer fitting member further comprising an annular surface (68) approximately orthogonal to said longitudinal axis (Fig 1B); and

a locking member (54) comprising a hollow central lumen, an annular, inwardly protruding plateau shaped protrusion (64), and a body that extends axially beyond at least a portion of the conical restraining surface and toward the forward end of the luer fitting member (Fig 1A); wherein the locking member can, in assembly of the connector assembly, be moved from a rearward end of the luer fitting member toward the forward end thereof (Figs 1A-3B), with said protrusion snapping over said conical restraining surface; and wherein said protuberance is adapted in use of the connection to engage said annular surface as a positive stop (Fig 3B).

As to Claims 2, 3, 10, 17 and 18, Fitoussi et al disclose a luer fitting assembly wherein the locking member comprises a finlike handle and an undulating grip (see Examiner's Figure below).

**Examiner's Figure**



As to Claims 4 and 19, as best understood Fitoussi et al disclose a luer fitting assembly wherein the locking member comprises a skeletal handle (see Examiner's Figure above; Examiner notes that there are no structural limitations defining what a skeletal handle comprises, and that applicant is merely naming the handle).

As to Claim 6, Fitoussi et al disclose a luer fitting assembly wherein the locking member comprises a cavity grip cavity grip having an indentation approximating the shape of a human thumbprint (see Examiner's figure above).

As to Claim 7, Fitoussi et al disclose a luer fitting assembly wherein the finlike handle radially extends outward from approximately one longitudinal end of the locking member (See Examiner's figure above).

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As to Claim 9, Fitoussi et al disclose a luer fitting assembly wherein the locking member comprises both a skeletal handle and an undulating grip (See Examiner's Figure above).

As to Claims 12 and 15, Fitoussi et al disclose a luer fitting assembly wherein the annular surface uniformly mates with a corresponding annular surface of the plateau shaped protrusion (Col 4, Lines 40-44).

As to Claims 13 and 16, Fitoussi et al disclose a luer fitting assembly wherein the rim uniformly mates with a corresponding annular surface of the plateau shaped protrusion (Fig 3B).

As to Claim 20, Fitoussi et al disclose a luer fitting assembly wherein the locking member is rotatably mounted upon said one of the male or female luer fitting members (Col 3, Line 23).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fitoussi et al in view of Werschmidt et al (US Patent 5,620,427)

Fitoussi et al disclose the luer fitting assembly significantly as claimed, but do not disclose wherein the undulating grip comprises ten waves. Fitoussi et al do not disclose any structural or functional significance as to the number of undulations on the grip. It has been consistently held that change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Accordingly it would have been obvious to one of ordinary skill in the art to modify the assembly of Fitoussi et al to have the undulating grip comprising ten waves as the reference does not disclose any structural or functional significance as to the number of undulations on the grip as this is merely a change in shape yielding expected and predictable results.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents D517209, 6893056, 5984373, 6673059, 5620427,

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6843513, 5702374, 5047021, 4735441, D483869, D454637 and 5611576 all have been cited to show similar luer fitting connections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA T. KENNEDY whose telephone number is (571)272-8297. The examiner can normally be reached on M-F: 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joshua T. Kennedy/  
Examiner, Art Unit 3679  
9/9/2008

/Daniel P. Stodola/  
Supervisory Patent Examiner, Art Unit 3679